

**To: Supervisor Ross Mirkarimi, Chair
San Francisco Local Agency Formation Commission (LAFCO)**
Re: Proposed Compromise Amendment on CCA Implementation Entity
Dt: July 14, 2005

We propose that the Board create, fund and appoint a special purpose Community Choice Aggregation Program Director (PD) The PD shall be directly responsible to the Board of Supervisors for the implementation of CCA and ordinance 86-04. The Board of Supervisors shall receive candidates for PD and appoint a PD within one month of the Board's adoption of the Implementation Plan and two months prior to the latest possible date on which the California Public Utilities must certify receipt of the Plan pursuant to Public Utilities Code Section 366.2(c)(7).

Whereas the Implementation Plan approved and referred by the San Francisco Local Agency Formation Commission to the Board of Supervisors "With Recommendation" on May 13, 2005 creates an entirely independent Single Purpose Entity to Manage the CCA implementation process through the 3 year 360 MW solar rollout (thus 4 years from now), the SFPUC proposes that it control implementation of the CCA program for the next four years. Our proposed "Compromise" with the SFPUC's is that half of the SFPUC's proposed annual \$9M budget will remain under SFPUC (\$4.5 M/yr) and the other half (\$4.5M/yr) will be directly administered by the Board of Supervisors' chosen PD, an individual who serves under contract at the pleasure of the Board, may be removed by ordinance, must report on the use of these funds to the Budget and Finance committee on a quarterly basis.

The proposed compromise amendment will ensure that City agency staff and other in-house resources are budgeted to work as a dedicated team chosen and removable from the project by the PD. The PD will have an adequate budget to implement even if the SFPUC fails to cooperate on preparation of the CCA RFP as much as it has failed to deliver the Implementation Plan ordered by ordinance 86-04. Thus, the CCA program will include SFPUC/DOE staff.

SFDOE would also make staff and office resources available to the PD under its own agency budget, under the same staff and consultant arrangement. By endowing the PD with an independent line item in the 2005-6 Budget, we ensure Board of Supervisors accountability and transparency: a Board-appointed Program Director who will administer half of the CCA program budget directly, and be able to hire outside consultants for essential expertise required by the PD. In addition, the PD will oversee participating dedicated SFPUC/DOE staff paid for by their CCA budgets. The PD may select and remove SFPUC and SFDOE staff with appropriate expertise according to program needs. The PD will perform the six-month and annual Employee Evaluations for participating SFPUC and SFDOE staff. Finally, the PD will select among existing SFPUC and DOE agency consultants based on available expertise. All SFPUC staff, as well as existing SFPUC consultants, shall be paid for by SFPUC's \$4.5M/yr. Budget. All SFDOE staff and consultants shall be paid for by SFDOE's budget.

For essential expertise not available among SFPUC/SFDOE staff or existing consultants, the PD will independently retain consultants or and other contract personnel. These parties shall be paid from the PD's \$4.5M/yr. Budget. The PD shall obtain an office equipment and materials under its own budget

Introduction of Issues: San Francisco's CCA program suffers from a significant gap between the Board of Supervisors and the SFPUC/DOE. There is clearly a lack of applicable expertise among the SFPUC/SFDOE and its consultants relative to implementing Ordinance 86-04, resulting in a failure to perform work specifically required by the very city ordinance that ordered the Implementation Plan preparation and Request for Proposals (RFP). Until today, this gap has been filled voluntarily on a *pro bono* basis by Local Power. However, given the significance of the CCA program, this gap should now be filled with the creation of an independent Board-appointed CCA Program Director.

This proposed compromise amendment satisfies a continued SFPUC/DOE staff frontline role in the CCA program while providing for direct accountability to the Board of Supervisors and new essential expertise made available to the CCA RFP and related process under the PD. As stated in the approved plan, the budget should be \$9 M/yr.: half with the SFPUC/DOE (\$4.5M/yr.) and half with the Program Director (\$4.5M/yr.). As the SFPUC's budget will not be staffing all components, its costs will be lower, and the budget can be worked out at the Budget and Finance Committee under Chairman Ammiano. As this is a new budget, administrative control of the funds will not come as a loss. SFPUC/DOE will have staff working on CCA paid by this new CCA budget, so SFPUC/DOE will still ultimately receive the funds. Staff from SFPUC/DOE will be dedicated to this implementation as determined by the Program Director.

Basis of Proposed Amendment: Accountability and Transparency. Accountability and funding transparency is critical. On accountability, the gap between SFPUC staff and the Board has already caused a 6 month delay and a failure of the SFPUC/DOE to submit what the Board ordered. On transparency, if the Board simply hands over \$9 M/yr. to the SFPUC, Supervisors will lose track of what the \$9M is spent on. No transparency means the money gets lumped into whatever the SFPUC does: "trust me, we'll manage it." If you have a Program Director accountable to the board the CCA implementation process will be transparent – no money for other SFPUC projects, only for the CCA program. Moreover, we need payment for specific deliverables, rather than 25 people full time parked on the job.¹ You might have a core of full-time staff and a larger pool of as-needed part-time analysis and support staff and consultants.

Qualifications of Program Director: While resting on a core SFPUC/DOE staff resources, this proposed compromise would create a independent Program Director (PD) – an independent consultant paid by and serving at the will of the Board of Supervisors – but managing SFPUC and DOE staff, their existing consultants, and outside consultants with essential expertise. The PD, who would contract with, supervise and remove dedicated Project Delivery Team members, must have the strongest available mix of knowledge and experience in the components of ordinance 86-04 and the Implementation Plan:

- Expertise in CA Community Choice Aggregation Law (AB117)
- Expertise in CPUC CCA Regulations for CCA (R..03-10-003), electric procurement, (R. 04-04-003, R. 01-10-024) and energy efficiency (R.01-08-028);

¹**Examples of Independent Entity Success:** Pasadena Gold Line – ahead of time, under budget – went into revenue service Summer 2004, or New Jersey's Hudson Bergen Light Rail – start of DBOM is US for transit. **Examples of Staff-based Entity Failures** are the Bay Bridge – CALTRANS Staff and MTC staff running show, disaster; and Boston's Big Dig – Mass Transportation Authority, fiscal disaster.

- Expertise in H Bond Authority (Charter Section 9.107.8);
- Familiarity With Design-Build-Operate-Maintain Precedents, Available Expertise;
- Expertise in Infrastructure Site Acquisition, Industrial Facility Permitting and Construction Management ;
- Expertise in Solar Photovoltaics Development;
- Experience in Data Management and Mapping Systems;
- Expertise in state legislative process;
- Expertise in local legislative process;
- Familiarity with CPUC, California Energy Commission (CEC) and available federal subsidies.

Scheduling Issues: The PD should require no longer than one month to identify and hire the PD. As Ordinance 86-04 authorizes the Board to alter the schedule for preparation of the RFP by resolution, the Board will adopt a resolution extending the deadline by one month to accommodate this delay, meaning the RFP should be submitted to the Board of Supervisors no later than January 6, 2006. The Implementation Plan shall be amended to reflect this modification of schedule.

CCSF FY 2005-6 Budget Issues: The PD would be appointed by and report to the Board of Supervisors. Annual budget of the PD must be made as a Budget line item by the Board of Supervisors. This could be done in the Budget now in Committee, and/or through a draw on General Funds based on the H Bonds Resolution of Reimbursement prepared by Local Power.

The PD would administer the \$4.5M annual Budget for four years, and would select and supervise SFPUC/DOE staff, as well as outside consultants, for the term of the Phase I Rollout. The Board of Supervisors would have an option of renewal of the PD contract for a Phase II rollout.

Finally, SFPUC staff would be dedicated to this program and PD according to the selection of the PD within the SFPUC's Board-approved budget, which the SFPUC General Manger must approve within one month after the PD is approved by the Board of Supervisors. All SFPUC and DOE staff's annual performance reviews would be undertaken by the PD instead of the SFPUC's existing manager.